

In the United States Court of Federal Claims

No.02-0110V

Filed: April 16, 2013

Not to be Published

SARAH ALICE KOMPOTHECRAS
GARY KOMPOTHECRAS,
as the parent and natural guardian,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

Autism; Attorneys' Fees and Costs

DECISION AWARDING ATTORNEYS' FEES AND COSTS ¹

On April 22, 2012, petitioner filed a motion for award of final attorneys' fees and reimbursement of costs in this case. On April 24, 2012, petitioner requested that I stay his motion for attorneys' fees and costs while he prepared a motion from relief from judgment. Petitioner filed his motion for relief on May 9, 2012. I denied that motion on January 29, 2013.

Because petitioner filed the motion for fees and costs more than 180 days after judgment had entered, I ordered him to show cause why I should not deny his motion as being filed out of time. See Order to Show Cause, filed Mar. 11, 2013. Petitioner filed a response on April 10, 2013. On April 15, 2013, respondent's counsel informed an OSM

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

staff attorney that respondent has no objection to the award of fees and costs in the amount requested by petitioner and would not be filing a written response.²

The request for attorneys' fees and costs is granted. Petitioner is awarded reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1), as I find that the petition was brought in good faith and upon a reasonable basis, and the amounts requested are reasonable and appropriate. In lieu of filing a Vaccine General Order #9 statement, petitioner's counsel represents that he will reimburse petitioner any costs that petitioner personally incurred that are compensable under § 15 (e)(1).

Accordingly, I hereby award the **total of \$6,954.65.**³ This total represents \$100.00 in petitioner's personal costs, and \$6,854.65 in attorneys' fees and costs. The payment shall be:

1. a lump sum of \$6,854.65, in the form of a check payable jointly to petitioner, and petitioner's counsel, W. Sam Holland for attorneys' fees and costs; and

2. a lump sum of \$100.00, in the form of a check payable to petitioner, for out-of-pocket expenses personally incurred by petitioner.

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the Clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Special Master

² Respondent's counsel did indicate that respondent may object if petitioner later requests an additional amount for work performed after the fee application.

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally Beck v. Sec'y of Dep't Health and Human Services, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).